

**PLANNING COMMISSION MINUTES OF OCTOBER 10, 2005**

**2005-0279** - Appeal of a decision by the Director of the Planning Division to deny a tree removal permit for a redwood tree in the front yard at **1633 Edmonton Avenue** in an R-1 (Low Density Residential) SD (APN 320-05-008) (Brought to PC for clarification/application of the TRP Ordinance, redwood tree growing on top of sewer line and causing damage.)

**Gerri Caruso**, Principal Planner, provided a correction to the title of the appeal. She said the title should read, "Appeal of a Decision by the Director of Community Development..." not the Planning Division and that the correction is noted in the report. Ms. Caruso presented the staff report. She said that staff believes there are several options for saving this tree, noting that this tree is not in an optimal location, and is recommending denial of the appeal.

**Chair Hungerford opened the public hearing.**

**Margaret Klugherz**, applicant, said that the tree is not an immediate hazard at this time, but that the tree is only five feet from the property line of the adjoining neighbor and is becoming a root intrusion problem in future, to her and her husband's home and to the home of the neighbor, Mrs. Fernandez. She said that the roots may be causing damage to the foundation of the house. She said they have a home with an atrium and she has pulled roots from the atrium area as large as one inch around. She said they believe the concrete used for their house foundation built in 1959, may be pervious and subject to root intrusion. They have noted cracks in two of their bedrooms that could be caused by root intrusion or earthquakes, but that the cost of an arborist and civil engineer to verify this is expensive. They would like to repair the sewer line and remove the tree. She referred to Attachment A, item 3 saying that they believe the tree would effect their ability to sell the home and therefore "restricts the owner's ability to enjoy the reasonable use or economic potential of the property." If they choose to sell the home they would need to disclose the tree issues which could pose a potential devaluation of the property. She said there would be no adverse effect to the neighbors if the tree were removed. She said they would be happy to replace the tree or pay an in-lieu fee if the tree removal is approved.

**Bambi Fernandez**, the adjoining neighbor, spoke in support of the tree removal. She pointed out that this is not an historic tree. She said this area was an apricot orchard originally and that the tree was planted by the homeowner without having a concept of how out-of-scale the size of the tree would become. She said Mrs. Klugherz' concern about the concrete slab is valid, that the roots have affected the sewer and water lines and that the tree does negatively affect the value of the home. She said she would like to see the tree removed.

**Chair Hungerford closed the public hearing.**

**Ms. Caruso** pointed out that **Steve Sukke**, Public Works Senior Leader (City Arborist) was present at this meeting and available for questions.

**Chair Hungerford reopened the public hearing.**

**Comm. Simons** asked Mr. Sukke if he felt that this house design, one with an atrium, would be different than a ranch style in regards to root intrusion due to the watering of plants in the atrium possibly drawing the roots under the home's foundation. Mr. Sukke said it is not typical to see roots grow under the foundation, but that possibly the atrium with watering could attract roots. He said he has to look at the permit requests on a case-by-case basis, considering how large certain trees will grow, life expectancy and maintenance. Comm. Simons said with consideration of roots, would it be possible to trench and add root barriers. Mr. Sukke said that trenching can be done and helps reveal what the root situation is, but that most likely the roots that Mrs. Klugherz has found in her atrium are feeder roots.

**Comm. Klein** asked if the tree's distance from house makes a difference when it comes to trenching and barriers. Mr. Sukke said exposing the roots is like an x-ray of what is under the ground and reveals which roots are feeder roots and which are structural roots. He said the tree can survive the loss of some of the feeder roots. He said this tree has been well fed through the sewer line.

**Chair Hungerford** asked if fixing the sewer line could affect the health of the tree. Mr. Sukke said it is possible that the tree could begin declining if there was and absence of the supplemental watering.

**Ms. Klugherz** said that since the tree roots gravitate toward the sewer line there is the constant expense of sewer maintenance, but there would be no guarantee that a new sewer line would not have the same problem.

**Comm. Simons** commented that he understands the replacement pipe is one piece. Ms. Klugherz said from the explanation from the sewer pipe replacement people that it did not sound like it could be put in as one piece.

**Chair Hungerford closed the public hearing.**

**Vice Chair Fussell made a motion to grant the appeal and approve the Tree Removal Permit subject to the recommended Conditions of Approval. Chair Hungerford seconded the motion.**

**Vice Chair Fussell** said that he had difficulty with this appeal. He said the tree has a long life expectancy and whether the tree restricts the owner's ability to enjoy the reasonable use or economic potential of the property is questionable. He did find though that the tree could represent a potential hazard to people, structures, or other trees. He said the report indicates roots have already

proliferated under the atrium area, seem to be causing damage to the structure and will continue to do so.

**Chair Hungerford** said he agrees with the motion. He said this is a unique situation with an atrium in the home and no slab in that area and that the water in the atrium and the sewer situation has drawn the roots. He thinks that Finding 2 exists and that this tree is a hazard to the structure.

**Comm. Simons** said he will not be supporting the motion as he thinks there is an additional alternative not discussed, to trench and install a root barrier. He said the trenching could reveal if the tree needs to be removed and the City Arborist could determine that.

**Comm. Sulser** said he would not be supporting motion. He said this was a hard decision and he acknowledges that the roots could cause damage, but he said the burden is on the applicant to provide the evidence and that the case has not been made.

**Comm. Klein** said he would not be supporting the motion. He said he has a similar problem. He said there is definitely some damage to the home, but the cause could be the tree roots, or earthquakes. He said he thinks that having someone come out and trench to take a better look would be a good option and he cannot support the motion at this time.

**Vice Chair Fussell** added that the staff report indicates that the tree has prolific roots that are expanding under the atrium.

**The motion failed 2-4, with Comm. Klein, Comm. Babcock, Comm. Simons and Comm. Sulser dissenting.**

**Comm. Sulser made a motion to deny the appeal and uphold the denial of the Tree Removal Permit. Comm. Klein seconded the motion.**

**The motion carried 4-2 with Chair Hungerford and Vice Chair Fussell dissenting.**

**Ms. Ryan said that the Planning Commission action is final.**

**Final Action:**

<b>Comm. Sulser made a motion to deny the appeal and uphold the denial of the Tree Removal Permit. Comm. Klein seconded.</b>
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<b>Motion carried 4-2, Chair Hungerford and Vice Chair Fussell dissenting, Comm. Moylan absent.</b>
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**This decision is final and is not appealable.**